

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DEWAYNE JONES
5694 Ridgebury Blvd.
Lyndhurst, Ohio 44124

Plaintiff

v.

UNIVERSITY HOSPITALS HEALTH
SYSTEM, INC.
c/o ACFB Incorporated, Statutory Agent
200 Public Square, Ste. 2300
Cleveland, Ohio 44114

Defendant

) CASE NO.
)
) JUDGE:
)

) **COMPLAINT**
)

) **JURY DEMAND ENDORSED**
) **HEREIN**
)
)
)
)

Plaintiff Dewayne Jones, by and through undersigned counsel, for his Complaint against Defendant University Hospitals Health System, Inc. (“Defendant” or “UHHS”), states and avers as follows:

PARTIES

1. Plaintiff resides in Cuyahoga County, Ohio and was at all relevant times an “employee” of Defendant as defined by the Family Medical Leave Act, 29 U.S.C. §§ 2601 et seq. (“FMLA”).

2. Defendant is a corporation headquartered in the Northern District of Ohio and, at all relevant times, is and has been an “employer” as defined under the FMLA. Defendant employed Plaintiff in Cuyahoga County, Ohio.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, as it arises under the laws of the United States, and pursuant to the FMLA, 29 U.S.C. § 2617.

4. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) and (c) as Defendant is a corporation headquartered in Cuyahoga County, Ohio, and the causes of action alleged herein arise from Defendant's activities in Cuyahoga County, Ohio.

ALLEGATIONS

5. Defendant employed Plaintiff Dewayne Jones as an Environmental Services worker.

6. Plaintiff at all relevant times was an eligible employee under the FMLA.

7. Defendant had approved Plaintiff for FMLA leave due to his serious health condition for at least two years prior to the conduct giving rise to Plaintiff's cause of action herein.

8. On or about September 16, 2019 Defendant's agent for deciding and administering FMLA requests, The Reed Group, notified Plaintiff that it had received his request for FMLA continuous leave from August 8, 2019 through September 22, 2019. Plaintiff's request was for the same serious health condition for which he had received prior certifications.

9. Defendant terminated Plaintiff's employment on or about September 30, 2019.

10. On or about October 21, 2019, Defendant through its agent, The Reed Group, approved FMLA continuous leave for Plaintiff from August 8, 2019 through September 24, 2019.

11. Defendant based its termination decision on the accumulation of 16 absences, 13 of which fell on dates for which Defendant through its agent, The Reed Group, approved FMLA continuous leave for Plaintiff.

12. Plaintiff would not have been terminated but for Defendant's use of absences on days for which Defendant had approved Plaintiff for continuous FMLA leave.

13. Defendant's termination of Plaintiff's employment is in violation of 29 U.S.C. §2615(a)(1), which makes it unlawful for any employer to interfere with, restrain or deny the exercise of or the attempt to exercise any right that the FMLA affords.

14. Defendant did not act in good faith and did not have reasonable grounds for believing that its conduct was not a violation of Title 29 U.S.C. § 2615, such that Plaintiff is entitled to additional, liquidated damages.

WHEREFORE, Plaintiff demands from Defendant the following:

- (a) Reinstatement to his job;
- (b) Monetary damages to compensate Plaintiff for lost wages and benefits, including but not limited to lost seniority and retirement benefits;
- (c) Liquidated damages as allowed by the FMLA;
- (d) An award of reasonable attorneys' fees and costs; and
- (e) Such other relief to which Plaintiff is entitled.

Respectfully submitted,

/s/ David W. Neel

David W. Neel (0033611)
David W. Neel, LLC
13800 Shaker Blvd., Ste. 102
Cleveland, Ohio 44120
Telephone: (216) 522-0011
Telecopier: (844) 548-3570

/s/ Alan I. Goodman

Alan I. Goodman (0012660)
55 Public Square, Suite 1330
Cleveland, Ohio 44113
Tele: (216) 456-2486
Fax: (216) 456-2487
agoodman@aiglaw.com

Attorneys for Plaintiff Dewayne Jones

JURY DEMAND

Plaintiff demands a trial by jury on all claims asserted in this Complaint.

/s/ David W. Neel

David W. Neel (0033611)